PEONAGE—CONSTITUTIONALITY OF STATUTE.—U. S. v. MCCLELLAN, 127 FED. 971 (GA.).—A conviction, in accordance with the statute against peonage, of one who holds another in involuntary servitude to work out a debt, *held,* valid.

The constitutionality of the statute is plain under Const. U. S., Amend. 13, Secs. 1 and 2, since it is merely a prohibition of involuntary servitude. Although the statute in question was enacted to prohibit peonage in New Mexico, it is proper for the law to be applied to any of the States as well. *Prigg v. Penn.,* 16 Pet. 539. In the principal case the question of the somewhat conflicting doctrines of the necessity of a strict application of the Penal Statutes, and the broad construction with which the statutes guarding the liberty of the citizen should be viewed, arises. Following the *Peonage Cases,* 123 Fed. 671, it holds that the latter doctrine demands the greater protection. On the whole, it seems rather incongruous that the question of negro slavery should still appear in the Federal courts. (See editorial comment.)

RAILROADS—CROSSING ACCIDENT—IMPUTABLE NEGLIGENCE.—DUVAL V. RAILROAD, 46 S. E. 750 (N. C.).—*Held,* that negligence of one with whom plaintiff was riding as a guest in a carriage struck by defendant's train, is not imputable to plaintiff.

In *Thorogood v. Bryan,* 8 C. B. 115, it was held that the negligence of a driver was imputable to one riding in the conveyance with him. This case was expressly overruled in *The Bernina,* 13 App. Cas. 1, in which Lord Herschell cites with approval *Little v. Hackett,* 116 U. S. 336. In *Prideaux v. City of Mineral Point,* 43 Wis. 513, the English doctrine as promulgated in *Thorogood v. Bryan, supra,* was approved and adopted. See also *Otis v. Town of Jonesville,* 47 Wis. 422; *Whittaker v. Helena,* 14 Mont. 124; *Railroad v. Talbot,* 48 Neb. 627. But by the great weight of authority in this country and in England, the doctrine set forth in the decision in the principal case is the correct one. *Railroad v. Lapsley,* 51 Fed. 174; *Little v. Hackett, supra; City of Coruna v. Ervin,* 59 Ill. App. 555; *Knapp v. Dogg,* 18 How. Prac. 165. It has been held that the rule that the driver's negligence should not be imputed to the plaintiff should apply only in cases where the plaintiff is seated away from the driver or is separated from him by an inclosure and is without opportunity to discover danger. *Robinson v. Railroad,* 66 N. Y. 11; *Brickell v. Railroad,* 120 N. Y. 290.

TELEGRAM—FAILURE TO DELIVER—DAMAGES.—WESTERN UNION TEL. CO. V. MCNAIRY, 78 S. W. 969 (TEX.).—The delivery of a telegram notifying plaintiff of her brother's death and requesting instructions was negligently delayed. *Held,* that damages for mental anguish are not recoverable, although the nature and importance of the message are apparent on its face.

This is the first break in the long line of decisions of this court, which have established the so-called "Texas Doctrine," namely, that where the importance of the message is apparent, damages for mental anguish are recoverable. *Tel. Co. v. Simpson,* 73 Tex. 422; *Tel. Co. v. Kerr,* 4 Tex. Cir. App. 280; *Tel. Co. v. Proctor,* 6 Tex. Cir. App. 300. The trend of the later decisions is to repudiate that doctrine. *Sparkman v. Tel. Co.,* 41 S. E. (N. C.) 881; XII *Yale Law Journal,* 111, in which the authorities are carefully marshalled.